



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/679,119	10/04/2000	Roger P. Hoffman	P/2-75 CIP	7289

7590 12/28/2006
PHILIP M. WEISS, ESQ.
WEISS & WEISS
310 OLD COUNTRY ROAD, SUITE 201
Garden City, NY 11530

EXAMINER

OUELLETTE, JONATHAN P

ART UNIT	PAPER NUMBER
----------	--------------

3629

MAIL DATE	DELIVERY MODE
-----------	---------------

12/28/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/679,119	HOFFMAN, ROGER P.
	Examiner Jonathan Ouellette	Art Unit 3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 May 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3-14,16-46,48-51,58 and 60-71 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3-14,16-46,48-51,58 and 60-71 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Claims 2, 15, 47, 52-57, 59, and 72-79 have been cancelled; therefore, Claims 1, 3-14, 16-46, 48-51, 58, and 60-71 are currently pending in application 09/679,119.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows: Any additional disclosures Roger Hoffman made about the subject matter contained in the cited reference, and any public use of the conceptual matter.

4. Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

5. Claims 1, 3-14, 16-46, 48-51, 58, and 60-71 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoffman (Hoffman, Roger, "Small tonnage increases examined by medium mill for cost-effectiveness." Pulp & Paper, September 1980).

6. As per independent Claims 1, 17, 21, 30, 33, 49, 60, 61, the Inventor (Roger Hoffman), disclosed the business method to include: controlling the operating speed of a continuous process manufacturing facility (Incremental efficiency concept deals with the efficiency associated with incremental changes in machine speed) comprising the steps of: determining a current operating speed of said continuous process manufacturing facility (current efficiency – machine speed is a factor of efficiency); determining a desired operating speed (optimal efficiency), the desired operating speed dependent on at least one economic variable that varies depending on the operating speed (Energy Costs – see Fig.3); comparing said current operating speed to said desired operating speed (Fig.3, comparing efficiencies); adjusting said current operating speed in response to said determination (Operator would choose efficiency which produces best production with lowest cost – see Fig.3).
7. As per Claims 3 and 35, Hoffman discloses determining said at least one economic variable is at least one of: a cost of manufacturing, at least one manufacturing inflow, and at least one manufacturing outflow (Fig.3, Energy Cost / ton of production is equivalent to cost of manufacturing and Average Production is a function of manufacturing inflow and manufacturing outflow – such data is needed to plot the displayed graph).
8. As per Claims 4, 22, and 36, Hoffman discloses calculating the cost of manufacturing, the manufacturing inflow, and the manufacturing outflow at a plurality of potential speeds, and selecting the desired operating speed from the potential operating speeds (see rejection for claim 3; Fig.3, points on the graph).

9. As per Claims 5, 24, and 37, Hoffman discloses calculating a marginal cost of manufacturing, a marginal manufacturing inflow, and a marginal manufacturing outflow at a plurality of marginal potential operating speeds and selecting the desired speed from the marginal potential operating speeds and a prior desired operating speed (Fig.3, Marginal cost is expressed as a function of total cost and quantity – as graphed).
10. As per Claims 6, 25, and 38, Hoffman discloses wherein the economic variable is cost of manufacturing, and the cost of manufacturing includes ascertaining the correlation between operating speed and the cost of manufacturing (Fig.3 – see curve).
11. As per Claims 7, 26, and 39, Hoffman discloses determining said cost of manufacturing by ascertaining a correlation between operating speed and at least one of the following: the per-unit cost of *manufacturing inflows (per ton)* and the usage of manufacturing inflows (Fig.3 – see curve).
12. As per Claims 8 and 40, Hoffman discloses wherein the correlation between manufacturing cost and operating speed is ascertained by estimating the correlation between manufacturing costs and operating speed of specific equipment or process in a continuous process manufacturing facility (Fig.3, graph based on paper production facility data).
13. As per Claims 9, 10, 41, and 42, Hoffman discloses wherein the correlation between manufacturing cost and operating speed for a machine is determined by including usage of manufacturing inflows associated with breaks; and wherein the correlation between manufacturing cost and operating speed for a machine is determined by including usage

of manufacturing inflows associated with breaks (Fig.3 and Fig.4, different graph lines indicate machine changes).

14. As per Claims 11 and 43, Hoffman discloses wherein the correlation between manufacturing cost and operating speed is ascertained by establishing the correlation between manufacturing costs and operating speed of groups of at least one of equipment and processes in a manufacturing facility (Fig.3 – data based on cost of operating and production of a paper machine system).
15. As per Claims 12 and 44, Hoffman discloses wherein the purchase price of manufacturing inflows is assigned, from lowest to highest per-unit cost, to increasing levels of continuous process manufacturing facility's production (Purpose of Fig.1, graph).
16. As per Claims 13, 27, and 45, Hoffman discloses determining said manufacturing outflow by ascertaining a correlation between operating speed and sales of at least one of finished products and byproducts (Purpose of Fig.1, graph).
17. As per Claims 14, 28, and 46, Hoffman discloses wherein the correlation between the operating speed and sales is ascertained by assigning a plurality of manufacturing outflows to at least one specific portion of the continuous process manufacturing facility's production (Purpose of Fig.1, graph).
18. As per Claims 16, 29, and 48, Hoffman discloses wherein the manufacturing outflow is determined, from highest to lowest per-unit economic value, for increasing levels of the continuous process manufacturing facility's production (Purpose of Fig.1, graph; inflow and outflow are a component of production).

19. As per Claims 18, 31, and 50, Hoffman discloses wherein the operating speed of the continuous process manufacturing facility is dependent on at least one economic variable the varies depending on the operating speed (Fig.3 – best machine efficiency, determinant of energy costs vs. production).
20. As per Claims 19, 32, and 51, Hoffman discloses wherein the transactions include at least one of purchase of inflows, sales of outflows, capital additions, capital subtractions, and changes to equipment (Fig.1, Net income).
21. As per Claim 20, Hoffman discloses wherein the business transactions are proposed business transactions (Fig.1, Net income).
22. As per Claim 23, Hoffman discloses wherein the means for determining a desired operating speed comprises calculating the cost of manufacturing, the manufacturing inflow, and the manufacturing outflow (outflow minus inflow equals production) at a plurality of potential operating speeds (curve) and selecting the desired operating speed from the potential operating speeds (Fig.3 – best machine efficiency, determinant of energy costs vs. production – line points to optimal point).
23. As per Claim 58, Hoffman discloses wherein said at least one economic factor is determined in real time (Fig.3 – data points equate to operational “real time” numbers).

Response to Arguments

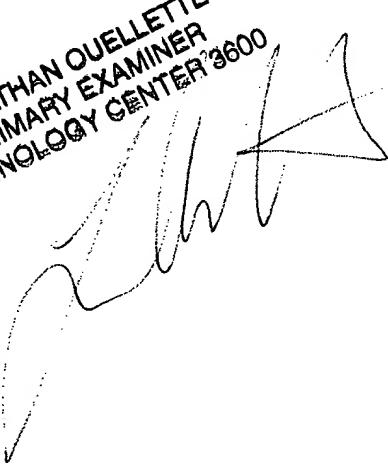
24. Applicant's arguments filed 5/25/2006, with respect to Claims 1, 3-14, 16-46, 48-51, 58, and 60-71, have been considered but are moot in view of the new ground(s) of rejection. The rejection will remain as NON-FINAL.

Conclusion

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
26. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.
27. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

December 15, 2006

JONATHAN OUELLETTE
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600





MAILED FROM ZIP CODE

000205065

DEC 2



Alexandria, VA 22313-1450
If Undeliverable Return in Ten Days

OFFICIAL BUSINESS. PENALTY FOR PRIVATE USE, \$300

AN EQUAL OPPORTUNITY EMPLOYER

